

Message Text

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ORIGIN EB-08

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L-03 LAB-04 NSAE-00 PA-01 CTME-00 AID-05 SS-15
STR-07 ITC-01 TRSE-00 SP-02 SOE-02 OMB-01 DOE-15
XMB-02 SIL-01 NSCE-00 SSO-00 ICAE-00 INRE-00 /123 R

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APPROVED BY EB/OT:S AHMAD

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TREASURY:J LUKE

TR RY:J RAY

STR:T GRAHAM

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO IMMEDIATE

INFO AMEMBASSY BRUSSELS PRIORITY

AMEMBASSY BUDAPEST PRIORITY

USMISSION GENEVA

USMISSION GENEVA PRIORITY

AMEMBASSY PARIS PRIORITY

C O N F I D E N T I A L STATE 089063

BUDAPEST PLEASE PASS DAS PETER D. EHRENHAFT

E.O. 11652:GDS

TAGS: ETRD, JA

SUBJECT:ASSESSMENT OF ANTIDUMPING DUTIES ON JAPANESE COLOR
TV SETS

GENEVA PASS DAS WILLIAM G. BARRACLOUGH

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REFS: A) TOKYO 5629 (NOTAL), B) STATE 83574, C) TOKYO 5369
(NOTAL)

1. DEPARTMENT APPRECIATES REFTEL A REPORTING COMMENTS OF
JAPANESE PRESS AND A DELEGATION FROM ELECTRONICS INDUSTRIES
ASSOCIATION OF JAPAN. THERE FOLLOW BELOW BACKGROUND ON THE
CASE AND ANSWERS TO SOME OF THE POINTS RAISED.

2. THE JAPANESE MANUFACTURERS, CONTRARY TO MORIYAMA STATEMENT IN REFTEL C, HAVE NOT COOPERATED FREELY IN SUPPLYING INFORMATION REQUESTED BY CUSTOMS IN THIS CASE. THE JAPANESE MANUFACTURERS IN MANY CASES CONTINUALLY FAILED TO SUBMIT ADEQUATE INFORMATION TO CUSTOMS, AND WHERE INFORMATION WAS SUBMITTED IN RESPONSE TO TREASURY'S REQUESTS, IT WAS FREQUENTLY ERRONEOUS.

3. BY THE FALL OF 1977 IT WAS CLEAR TO CUSTOMS THAT IT COULD NO LONGER DELAY IN ASSESSING AND LIQUIDATING DUMPING DUTIES GOING BACK TO 1972, PARTICULARLY IN LIGHT OF CONGRESSIONAL PRESSURE TO ADMINISTER PROPERLY THE ANTIDUMPING LEGISLATION. CUSTOMS BEGAN LOOKING INTO WAYS OF OBTAINING EVIDENCE IT COULD RELY ON GIVEN THE SERIOUS DEFICIENCIES IN THE INFORMATION SUPPLIED BY JAPANESE MANUFACTURERS. THE REPRESENTATIVES OF THE JAPANESE MANUFACTURERS WERE AWARE OF THIS CHANGE, AND INDEED, REPORTED HEARING RUMORS THAT CUSTOMS WAS LOOKING INTO THE POSSIBILITY OF ALTERNATIVE EVIDENCE AND USING THE JAPANESE COMMODITY TAX AS PART OF A SUBSTITUTE METHOD FOR COMPUTING THE DUMPING DUTIES. AT THE REQUEST OF REPRESENTATIVES OF THE JAPANESE MANUFACTURERS, TREASURY GENERAL COUNSEL ROBERT MUNDHEIM MET WITH THEM ON DECEMBER 13 AND TOLD THEM THAT CUSTOMS INTENDED TO MOVE
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RAPIDLY TO BRING THE ASSESSMENTS UP TO DATE.

4. ON MARCH 17 MR. MUNDHEIM MET WITH MINISTER KAWAHARA OF THE JAPANESE EMBASSY, GAVE HIM A DETAILED MEMORANDUM DESCRIBING THE ACTION TREASURY INTENDED TO TAKE, AND WENT OVER IT IN CONSIDERABLE DETAIL. THE MEMORANDUM NOTED THAT IN CONFORMITY WITH AMBASSADOR STRAUSS' SIDE LETTER TO THE OMA ON COLOR TVS, TREASURY WOULD SOON BE MOVING TO ELIMINATE THE BACKLOG ON ASSESSMENTS OF ANTIDUMPING DUTIES AND WAS INFORMING THE JAPANESE OF THE ACTION TREASURY WAS TAKING. THE LETTER EXPLAINED THAT TREASURY WAS USING ALTERNATIVE INFORMATION BECAUSE OF THE INADEQUACY OF THE INFORMATION PROVIDED BY THE JAPANESE FIRMS. THE USE OF THE JAPANESE COMMODITY TAX WAS DESCRIBED WITHOUT GIVING THE PRECISE NUMERICAL RATIOS TREASURY INTENDED TO EMPLOY. THE MEMORANDUM NOTED THAT THE METHOD TREASURY WAS APPLYING WAS NEW, THAT THERE MIGHT BE A SUBSTANTIAL IMPACT ON JAPANESE MANUFACTURERS AND THAT, IF IT WAS POSSIBLE, TREASURY WAS PREPARED TO WORK WITH THE AFFECTED PARTIES SO THAT A LEGAL CHALLENGE COULD BE UNDERTAKEN PRIOR TO THE TIME THE FULL DUMPING DUTIES HAD TO BE PAID.

5. FOLLOWING THE MEETING WITH MINISTER KAWAHARA, TREASURY HAD SEVERAL INFORMAL DISCUSSIONS WITH MINISTER KAWAHARA AND MR. TANABE OF THE JAPANESE EMBASSY. ON MARCH 28 MR. MUNDHEIM MET WITH REPRESENTATIVES OF JAPANESE MANUFACTURERS AT THE REQUEST OF THE JAPANESE EMBASSY AND ON MARCH 30 UNDER SECRETARY ANDERSON MET WITH AMBASSADOR TOGO.

6. TREASURY HAS INFORMED THE JAPANESE EMBASSY AS WELL AS REPRESENTATIVES OF THE JAPANESE MANUFACTURERS AND IMPORTERS THAT CUSTOMS HAS SET UP A TASK FORCE TO HEAR

PROTESTS FROM THE INTERESTED PARTIES AND TO ATTEMPT TO RESOLVE CLAIMS. FURTHER, TREASURY HAS TOLD THEM THAT IT IS WILLING TO ATTEMPT TO NEGOTIATE AN ARRANGEMENT WHEREBY
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A COURT CHALLENGE OF TREASURY'S METHOD CAN TAKE PLACE RAPIDLY AND PRIOR TO PAYMENT OF ALL OF THE MONIES OWED. ANY IMPORTER WHO WISHES TO DISPUTE THE INITIAL ASSESSMENT IS REQUIRED BY STATUTE TO FILE AN ADMINISTRATIVE PROTEST WITH CUSTOMS WITHIN 90 DAYS OF ASSESSMENT AND LIQUIDATION, I.E., FROM MARCH 31 FOR THE 1972-73 ASSESSMENTS.

7. WE UNDERSTAND THAT TREASURY IS PREPARED TO RECEIVE A DELEGATION FROM MITI AND IS IN CONTACT WITH THE JAPANESE EMBASSY. A DATE FOR THE MEETING HAS NOT YET BEEN SET BUT IS EXPECTED BY MID-APRIL. DEPUTY DIRECTOR GENERAL, MIZUNOE, MACHINERY AND INDUSTRY INFORMATION BUREAU, MITI, MAY LEAD THE JAPANESE DELEGATION.

8. REGARDING SOME OF THE OTHER POINTS MADE IN REFTEL A)

--IN PARA 2, TREASURY IS FULLY SATISFIED THAT ITS APPROACH REMAINS CONSISTENT WITH THE METHODS OF CALCULATING DUTIES REQUIRED BY THE ANTIDUMPING LAW AND THE GATT ANTIDUMPING CODE.

--IN PARA 7, TREASURY, WHILE DECLINING TO RESPOND TO ALL QUERIES OF MANUFACTURERS' LAWYERS, DID SPEAK WITH THEM DURING THE PERIOD IN QUESTION AND MR. MUNDHEIM MET WITH THEM ON DECEMBER 13.

--IN PARA 8, EMBASSY QUITE PROPERLY POINTED OUT THAT THE OMA DID NOT WIPE THE SLATE CLEAN AND THE SIDE LETTER IN THE SECTION 201 OMA MAKES THAT CLEAR.

9. IN SUM, THE GOJ WAS PROMPTLY INFORMED OF SIGNIFICANT DEVELOPMENTS, TREASURY WILL RECEIVE INFORMATION THE GOJ WISHES TO PROVIDE, AND TREASURY IS DOING ALL IT CAN TO
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ESTABLISH A FRAMEWORK FOR SETTLEMENT OF CLAIMS OR PURSUIT OF A JUDICIAL PROCEEDING IN THE LEAST DISRUPTIVE WAY. AND AS NOTED IN THE PRESS RELEASE, THE ASSESSMENT THUS FAR IS LIMITED TO ENTRIES IN 1972 AND 1973 TOTALLING 46 MILLION DOLLARS, A SMALL PORTION OF THE TOTAL AMOUNT. THIS ACTION WAS, IN PART, THE RESULT OF THE DISCUSSION BETWEEN THE GOJ, JAPANESE MANUFACTURERS, TREASURY AND CUSTOMS DURING THE PERIOD FROM MARCH 17 TO MARCH 31. AT A MEETING WITH THE STATE DEPARTMENT ON APRIL 6 ON CB RADIOS (REPORTED SEPTTEL) TANABE EXPRESSED SATISFACTION THAT TREASURY HAD AGREED TO LIMIT THE ASSESSMENT TO 1972-73 AND THAT TREASURY HAD AGREED TO MEET IN THE NEXT

FEW WEEKS WITH THE GOJ AND WAS CONSIDERING MEETING WITH SOME JAPANESE MANUFACTURERS AND JAPANESE INDUSTRY REPRESENTATIVES. VANCE

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